

**INTENT TO PARTICPATE**

**Cooperative Contract(s) for MMIS Third Party Liability Services Module**

1. **PURPOSE**

The purpose of this document is to provide interested NASPO states the opportunity to participate in multi-state cooperative contract(s) for the NASPO ValuePoint Medicaid Management Information System (MMIS) Third Party Liability (TPL) Services Module**.**

1. **SCOPE OF THE CONTRACT(S)**

The State of Georgia is authorized by agreement of the participants to act as the procurement officer in developing the multi-state cooperative solicitation and the resulting contract(s). The resulting contracts will be non-mandatory.

Administrative Fee: All awarded contractor’s that execute a Master Agreement for these services will pay to NASPO ValuePoint, or its assignee, an administrative fee of one-quarter of one percent (0.25% or 0.0025) on payments received from all participating states no later than sixty (60) days following the end of each calendar quarter. It is anticipated that individual states will be able to add its own administrative fee when the state executes a Participating Addendum.

1. **TERM OF THE CONTRACT**

The initial term of the contract will be for five (5) years from the date of award with options to renew the contract for a total of five (5) additional years, not to exceed a total of ten (10) years.

1. **SOLICITATION AND CONTRACT DEVELOPMENT/ADDITIONAL INFORMATION**

The solicitation and contract development shall be accomplished in compliance with the laws of the State of Georgia following NASPO ValuePoint processes in accordance with the NASPO Memorandum of Agreement for the NASPO Cooperative Purchasing Program, incorporated herein by reference.

Solicitation Publication Period: Bidders/Offerors will be given at least 40 days after publication/advertisement to submit proposals.

Solicitation Type and Evaluation Criteria: A Request for Proposal (RFP) will be issued and evaluated in concert with the procurement laws and rules of the Lead State (State of Georgia)by a sourcing team comprised of procurement professionals and health care subject matter experts from the following states: Georgia, Louisiana, Missouri, Montana, and Rhode Island. .

Award(s): The solicitation will permit multiple awards.

1. **COMPLETION OF THIS DOCUMENT**

Chief Procurement Official: The Chief Procurement Official (CPO) must approve the submission of this Intent to Participate and the CPO’s office is the only entity that can submit this Intent to Participate to NASPO ValuePoint. Please enter the CPO’s name and contact information in the space provided below.

State Medicaid Director Consultation: The State Medicaid Director (SMD) should be consulted regarding state participation in this service. A Medicaid Management Information System (MMIS) is an integrated group of procedures and computer processing operations (subsystems also called modules) developed to meet the principal objectives identified in Federal Regulation 42 CFR 433.111. In order to be eligible for Federal funding, all State Medicaid Programs must have a MMIS system with the principal objective modules. Please contact your SMD for more information regarding your state’s MMIS efforts. Please enter the SMD’s name and contact information in the space provided below.

State Specific Terms and Conditions: If your state needs to include any state specific terms and conditions with the release of this RFP, please attach those specific clauses with to this Intent to Participate. Please only include specific terms and conditions needed by your state that are NOT already included in the RFP and Master Agreement. The Lead State will not negotiate or address any vendor questions regarding another state’s terms; any state specific terms and conditions will be negotiated by the participating state in its Participating Addendum.

Annual State Spend and State Admin Fee: For NASPO ValuePoint documentation purposes only,in the space provided below; please indicate your state’s annual spend for this service and please indicate your state’s admin fee that may be included in a Participating Addendum.

State Point of Contact: In the space provided below please enter the name, title, and contact information for the person completing this form.

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**PLEASE COMPLETE THE FOLLOWING:**

1. State of Montana
2. Chief Procurement Official:

Name: Meghan Holmlund

Phone Number: 406-444-1459

Email: mholmlund@mt.gov

1. Annual State Spend for this Service: $1.5M DDI; Ongoing Ops costs $1M per year
2. State Admin Fee: 1.5%
3. CPO has approved this ITP to be submitted? Yes [x]  No [ ]  (Click appropriate box)
4. The State Medicaid Director was consulted? Yes [x]  No [ ]  (Click appropriate box)
5. State Medicaid Director:

Name: Marie Mathews Director/ Shellie McCann, Medicaid Systems Operations Manager

Phone Number: Shellie: (406) 841-5025

Email: Shellie: RMcCann@mt.gov

1. Are there state specific T&Cs to be included in RFP? Yes [x]  No [ ]  (Click appropriate box)
2. State Point of Contact:

Name Tia Snyder

Title: Cooperative Purchasing/eMACS Support Unit Supervisor

Phone Number: 406-444-3315

Email: tsnyder@mt.gov

Please email completed “Intent to Participate” documents by **September 18, 2020** to:

Jerilyn Bailey, Cooperative Contract Coordinator

NASPO ValuePoint

jbailey@naspovaluepoint.org

The following changes are modifying or supplementing the Master Agreement terms and conditions. The Master Agreement and the Participating Addendum together are referred to herein as the “Contract.”

**State of Montana Terms and Conditions**

**ACCESS AND RETENTION OF RECORDS:** Contractor agrees to provide the Participating Entity, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Section 18-1-118, MCA). Contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of eight years after either the completion date of the Contract or the conclusion of any claim, litigation, or exception relating to the Contract taken by the Participating Entity or third party.

**ASSIGNMENT, TRANSFER AND SUBCONTRACTING:** Contractor shall not assign, transfer or subcontract any portion of the Contract without the express written consent of the Participating Entity. (Section 18-4-141, MCA.)

**COMPLIANCE WITH LAWS:** Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.l. 111-148, 124 Stat. 119]. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

**DEFENSE, INDEMNIFICATION /HOLD HARMLESS:** Contractor shall defend, indemnify and hold harmless the State of Montana and the contracting agency hereunder and their  elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims, demands, causes of action, liabilities, damages, judgments, expenses or fees, including the reasonable cost of defense thereof and attorney fees,  arising or awarded in favor of Contractor's or its subcontractor’s employees or agents or third parties for bodily or personal injuries, death,  damage to property, or financial or other loss resulting or allegedly resulting in whole or part from (i) the services performed or products provided or (ii) other acts or omissions of Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of Participating Entity or the contracting agency.

**REDUCTION OF FUNDING:** Participating Entity must by law terminate this Contract if funds are not appropriated or otherwise made available to support the Participating Entity's or contracting agency’s continuation of performance of this Contract in a subsequent fiscal period. (18-4-313(4), MCA) If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this Contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, Participating Entity shall terminate this Contract as required by law. Participating Entity shall provide Contractor the date Participating Entity's termination shall take effect. Participating Entity shall not be liable to Contractor for any payment that would have been payable had the Contract not been terminated under this provision. As stated above, Participating Entity shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date Participating Entity's termination takes effect. This is Contractor's sole remedy. Participating Entity shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

**CHOICE OF LAW AND VENUE:** Montana law governs this Contract. The parties agree that any litigation concerning this bid, proposal, or this Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees, except as provided in **Defense, Indemnification/Hold Harmless**.

**TAX EXEMPTION:** Participating Entity is exempt from Federal Excise Taxes (#81-0302402) except as otherwise provided in the federal Patient Protection and Affordable Care Act [P.l. 111-148, 124 Stat. 119].

**STATE OF MONTANA ADMINISTRATIVE FEE:** The Participating Entity assesses an Administrative Fee of one and one-half percent (1.50%) for all net sales (sales less credits and returns) made under this PA. The prices paid to Contractor must include the 1.5% Administrative Fee. The Contractor shall remit this Administrative Fee concurrent with the Required Usage Reporting described below. The Administrative Fee must be submitted by ACH along with email notification to the State of Montana Contracts Officer. This Administrative Fee is effective upon execution of this Participating Addendum.

**REQUIRED REPORTING:** Contractor shall submit quarterly reports to the Contracts Officer (CO) assigned by the Participating Entity to manage this contract.  Contractor shall provide CO with an electronic usage report (Excel), which must list the following information at the minimum: purchasing entity; description of items purchased; date of purchase; contract price; and the extended price for each transaction.  These reports are due no more than 30 days after the end of the quarter.

First Quarter: July 1 through September 30

 Second Quarter: October 1 through December 31

 Third Quarter: January 1 through March 31

 Fourth Quarter: April 1 through June 30

**DELIVERY:**Weekends and holidays excepted, deliveries shall be **F.O.B. DESTINATION**, to the location shown below. The term "F.O.B. destination" as used in this clause, means free of expense to the Participating Entity or contracting agency and delivered to the location specified. The Contractor shall:

* Pack and mark the shipment to comply with specifications; or if the specifications do not contain specific packing or marking instructions, pack and mark the shipment in accordance with prevailing commercial practices and in such a manner as to ensure delivery in good condition and as required by this IFB;
* Prepare and distribute commercial bills of lading and Material Safety Data Sheets (MSDS) as appropriate;
* Deliver the shipment in good order and condition to the point of delivery specified in the IFB;
* Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the Participating Entity or contracting agency at the delivery point specified in the IFB;
* Furnish a delivery schedule and designate the mode of delivering carrier; and
* Pay and bear all charges to the specified points of delivery.

**DEFENSE, INDEMNIFICATION / HOLD HARMLESS:** Contractor shall defend, indemnify and hold harmless the State of Montana and the contracting agency hereunder and their elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims, demands, causes of action, liabilities, damages, judgments, expenses or fees, including the reasonable cost of defense thereof and attorney fees, arising or awarded in favor of Contractor's or its subcontractor’s employees or agents or third parties for bodily or personal injuries, death, damage to property, or financial or other loss resulting or allegedly resulting in whole or part from (i) the services performed or products provided or (ii) other acts or omissions of Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of State.

**LIMITATION OF LIABILITY:** Contractor's liability for Contract damages is limited to direct damages and further to no more than twice the Contract amount. Contractor shall not be liable for special, incidental, consequential, punitive, or indirect damages. Damages caused by injury to persons or tangible property, or related to intellectual property indemnification, are not subject to a cap on the amount or type of damages.

**TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED:** Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (18-5-603, MCA) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

**INTELLECTUAL PROPERTY/OWNERSHIP:**

Mutual Use. Contractor shall make available to State, on a royalty-free, non-exclusive basis, all patent and other legal rights in or to inventions first conceived and reduced to practice or created in whole or in part under this Contract, if such availability is necessary for State to receive the benefits of this Contract. Unless otherwise specified in a statement of work, both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use copyrightable property created under this Contract. This mutual right includes (i) all deliverables and other materials, products, modifications that Contractor has developed or prepared for State under this Contract; (ii) any program code, or site-related program code that Contractor has created, developed, or prepared under or primarily in support of the performance of its specific obligations under this Contract; and (iii) manuals, training materials, and documentation. All information described in (i), (ii), and (iii) is collectively called the "Work Product".

Title and Ownership Rights. State retains title to and all ownership rights in all data and content, including but not limited to multimedia or images (graphics, audio, and video), text, and the like provided by State (the "Content"), but grants Contractor the right to access and use Content for the purpose of complying with its obligations under this Contract and any applicable statement of work.

Ownership of Work Product. Contractor shall execute any documents or take any other actions as may reasonably be necessary, or as State may reasonably request, to perfect State's ownership of any Work Product.

Copy of Work Product. Contractor shall, at no cost to State, deliver to State, upon State's request during the term of this Contract or at its expiration or termination, a current copy of all Work Product in the form and on the media in use as of the date of State's request, or such expiration or termination.

Ownership of Contractor Pre-Existing Materials. Contractor retains ownership of all literary or other works of authorship (such as software programs and code, documentation, reports, and similar works), information, data, intellectual property, techniques, subroutines, algorithms, methods or related rights and derivatives that Contractor owns at the time this Contract is executed or otherwise developed or acquired independent of this Contract and employed by Contractor in connection with the services provided to State (the "Contractor Pre-existing Materials"). Contractor Pre-existing Materials are not Work Product. Contractor shall provide full disclosure of any Contractor Pre-Existing Materials to State before its use and to prove its ownership. If, however, Contractor fails to disclose to State such Contractor Pre-Existing Materials, Contractor shall grant State a nonexclusive, worldwide, paid-up license to use any Contractor Pre-Existing Materials embedded in the Work Product to the extent such Contractor Pre-Existing Materials are necessary for State to receive the intended benefit under this Contract. Such license shall remain in effect for so long as such Pre-Existing Materials remain embedded in the Work Product. Except as otherwise provided for in Section Ownership of Work Product, or as may be expressly agreed in any statement of work, Contractor shall retain title to and ownership of any hardware it provides under this Contract.

**PATENT AND COPYRIGHT PROTECTION:**

Third-Party Claim. If a third party makes a claim against State that the products furnished under this Contract infringe upon or violate any patent or copyright, State shall promptly notify Contractor. Contractor shall defend such claim in State's name or its own name, as appropriate, but at Contractor's expense. Contractor shall indemnify State against all costs, damages, attorney fees, and all other costs and expenses of litigation that accrue as a result of such claim. If State reasonably concludes that its interests are not being properly protected, or if principles of governmental or public law are involved, it may enter any action.

Product Subject of Claim. If any product furnished is likely to or does become the subject of a claim of infringement of a patent or copyright, then Contractor may, at its option, procure for State the right to continue using the alleged infringing product, or modify the product so that it becomes non-infringing. If none of the above options can be accomplished, or if the use of such product by State shall be prevented by injunction, State will determine whether the Contract has been breached.

**CONTRACT OVERSIGHT:**

CIO Oversight. The Chief Information Officer (CIO) for the State of Montana, or designee, may perform contract oversight activities. Such activities may include the identification, analysis, resolution, and prevention of deficiencies that may occur within the performance of contract obligations. The CIO may require the issuance of a right to assurance or may issue a stop work order.

Right to Assurance. If State, in good faith, has reason to believe that Contractor does not intend to, is unable to, or has refused to perform or continue performing all material obligations under this Contract, State may demand in writing that Contractor give a written assurance of intent to perform. Contractor’s failure to provide written assurance within the number of days specified in the demand (in no event less than five business days may, at State's option, be the basis for terminating this Contract and pursuing the rights and remedies available under this Contract or law.

Stop Work Order. State may, at any time, by written order to Contractor require Contractor to stop any or all parts of the work required by this Contract for the period of days indicated by State after the order is delivered to Contractor. The order must be specifically identified as a stop work order issued under this clause. Upon receipt of the order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, Contractor shall resume work. The State Project Manager shall make the necessary adjustment in the delivery schedule or contract price, or both, and this Contract shall be amended in writing accordingly.

System Security. Contractor shall ensure systems delivered under this Agreement are adequately secure. For purposes of this Agreement, adequate security is defined to require compliance with federal and State of Montana security requirements and to ensure freedom from those conditions that may impair the State's use of its data and information technology or permit unauthorized access to the State's data or information technology. The State of Montana has established control standards and policies that align with the NIST Cybersecurity Framework. The latest revision of NIST SP 800-53 is used for control adherence evaluation established after developing a security categorization utilizing FIPS PUB 199. Thus, Contractor shall provide reasonable proof, through independent audit reports, that the system specified under this Agreement meets or exceeds federal and State of Montana security requirements to ensure adequate security and privacy, confidentiality, integrity, and availability of the State's data and information technology. Annual assurance statements shall be delivered to the Contract Liaison. Annual assurance statements must contain a detailed accounting of the security controls provided and must be in the form of a NIST Security Assessment Report or FedRAMP Security Assessment Report.

Physical Access. Contractor represents and warrants that it has established and during the Term it will at all times enforce:

(a) Physical protection mechanisms for all information assets and information technology to ensure such assets and technology are stored and protected in appropriate data centers;

(b) Appropriate facility entry controls limiting physical access to systems that store or process data;

(c) Processes to ensure access to facilities is monitored and is restricted on a “need to know” basis;

(d) Controls to physically secure all Confidential Information and to properly destroy such information when it is no longer needed.

Prohibited Activities and Spoofing. Licensor and its officers, employees, agents, subcontractors, and affiliated users, shall not violate or attempt to violate the security of the State’s network or interfere or attempt to interfere with the State’s systems, networks, authentication measures, servers or equipment, or with the use of or access to the State’s network by any other user. Such prohibited activity includes (i) accessing or logging into a server where access is not authorized; (ii) unauthorized probing, scanning, or testing the security or vulnerability of the State’s network or other systems; and (iii) attempting to portray itself as the State or an affiliate of the State or otherwise attempting to gain access, without authorization, via the State’s network or systems to any account or information technology resource not belonging to Licensor or its officers, employees, agents, subcontractors, and affiliated users (“Spoofing”). Licensor shall not perform unauthorized Spoofing or scanning of any kind, including user account identity. Systems shall not Spoof the mt.gov domain or engage in Email Spoofing. Email Spoofing is the creation of email messages with a forged sender address. For example, Email Spoofing includes creating or sending emails using the State’s domain.

**NONCOMPLIANCE WITH DEPARTMENT OF ADMINISTRATION REQUIREMENTS:** The Department of Administration, under the provisions of 2-17-514, MCA, retains the right to cancel or modify any contract, project, or activity that is not in compliance with the Department's Plan for Information Technology, State Strategic Plan for Information Technology, or any Statewide IT policy or standard in effect as of the date of contract execution. In the event of such termination, State will pay for products and services delivered to date and any applicable termination fee specified in the statement of work or work order. Any modifications to this Contract must be mutually agreed to by the parties.

**LETTER OF CREDIT:**

Value. The Letter of Credit must secure the performance of Contractor, including performance of the Services in accordance with the Work Plan and providing Deliverables in accordance with the Specifications, and must secure any damages, cost or expenses resulting from Contractor’s default in performance hereunder or liability caused by Contractor. Contractor may satisfy the obligation to provide a Letter of Credit through provision of one or more Letters of Credit on behalf of Contractor or from various sources. The State requires 4% of the DDI Contract value and will be reduced to 2% of the total operations contract value once all module components are in full operations.

Payments. The Letter of Credit must become payable to the Department for any outstanding damage assessments made by the Department against Contractor. An amount up to the full amounts of the Letter of Credit may also be applied to Contractor’s liability for any administrative costs and/or excess costs incurred by the Department in obtaining similar Software, Deliverables, other products and Services to replace those terminated as a result of Contractor’s breach. The Department may seek other remedies in addition to this stated liability. It is understood and agreed that the form of the Letter of Credit will be substantially similar to the form provided by State.

Review and Acceptance by the Department. Prior to acceptance of the Letter of Credit, the Department reserves the right to review and give its acceptance of the Letter of Credit. Both the initial expense and the annual premiums on the Letter of Credit must be paid by Contractor. The original Irrevocable Letter of Credit must be provided to the following address within 10 business days from the Effective Date: State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. Failure to timely provide a Letter of Credit acceptable to the Department is a Material Breach of this Contract.

**Federal Terms and Conditions**

**(Non-Construction)**

**1. Nondiscrimination**

Contractor agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor's performance under this contract, on the ground of race, religion, color, national origin, sex or handicap. Accordingly and to the extent applicable, the Contractor agrees to comply with the following national policies prohibiting discrimination:

 a. On the basis of race, color or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as implemented by DoD regulations at 32 CFR part 195.

 b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 {3 CFR, 1964-1965 Comp. pg. 339}, as implemented by Department of Labor regulations at 41 CFR part 60.

 c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DoD regulations at 32 CFR part 196.

 d. On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.

 e. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

**2. Lobbying**

Contractor agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) is incorporated by reference and the State agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

**3. Drug‑Free Work Place**

Contractor agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

**4. Environmental Protection**

* + - 1. Contractor agrees that its performance under this contract shall comply with:
		1. The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);
		2. Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;
		3. The Resources Conservation and Recovery Act (RCRA);
		4. The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
		5. The National Environmental Policy Act (NEPA);
		6. The Solid Waste Disposal Act (SWDA);
		7. The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31;
		8. To identify any impact this contract may have on the quality of the human environment and provide help as needed to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and any applicable federal, state or local environmental regulation.
1. In accordance with the EPA rules, the parties further agree that the Contractor/Vendor shall also identify to the state any impact this contract may have on:
	* 1. The quality of the human environment and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.
		2. Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.
		3. Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.
		4. Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.
		5. Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).
		6. Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3).

**5. Use of United States Flag Vessels**

Contactor agrees that travel under this contract shall use U.S.-flag air carriers ( air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

The Contactor/Vendor agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. Chapter 553), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).

**6. Debarment and Suspension**.

Contractor is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

Contractor agrees to comply with the DOD implementation of 2 CFR part 180 (at 2 CFR 1125) by checking the Excluded Parties List System (EPLS) at the current OMB website to verify (sub)contractor eligibility to receive contracts and subcontracts resulting from this Agreement. The Contractor shall not solicit offers from, nor award contracts to contractors listed in EPLS. This verification shall be documented in the Contractors contract files, and shall be subject to audit by Federal and State audit agencies

**7. Buy American Act.**

Contractor agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10a et seq). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community (EEC) on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

**8. Uniform Relocation Assistance and real Property Acquisition Polices**

Contractor agrees that it will comply with CFR 49 part 24, which implements the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

**9. Copeland "Anti-Kickback" Act**

Contractor agrees that it will comply with the Copeland "Anti‑Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this contract, the Copeland "Anti‑Kickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

**10. Contract Work Hours and Safety Standards Act**

Contractor agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1.5 times the basic rate of pay.

**11. Rights to Inventions Made Under a Contract or Agreement.**

Any discovery or invention that arises during the course of the contract shall be reported to the non-Federal entity. Contractor/Vendor must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

**12. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended**

Any Contract or subcontract in excess of $150,000 must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the State who in turn will report to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**13. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**

Contractors that bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**14. System For Award Management and Data Universal Numbering Requirements**

Contractor agrees to comply with the System for Award Management and Data Universal Numbering as indicated below:

Contractor must provide DUNS number to the state. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun & Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the internet (currently at <http://fedgov.dnb.com/webform>)

**15. Procurement of recovered materials.**

Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](https://www.law.cornell.edu/cfr/text/40/part-247) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**16. 2 C.F.R. 200.326, Appendix II, Required Contract Clauses**

2 C.F.R. 200.326, Appendix II, Required Contract Clauses are incorporated by reference as if set forth in full text and are made part of this agreement as applicable. Contractor shall comply with all applicable contract clauses and provide the same clauses in any subcontracts or purchase orders issued in support of this agreement with the state.